

AMENDED IN ASSEMBLY APRIL 19, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1965

Introduced by Assembly Member Lieu *Members Lieu and Saldana*
(Principal coauthor: Assembly Member Calderon)
(Coauthor: Assembly Member Laird)

February 6, 2006

An act to add Section 23038 to the Financial Code, and to add Section 823.5 to the Military and Veterans Code, relating to deferred deposit transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1965, as amended, Lieu. Deferred deposit transactions.

Existing law provides certain protections for members of the National Guard ordered into active state service by the Governor or active federal service by the President of the United States for emergency purposes, and for reservists called to active duty, as specified.

Existing law provides for the licensure and regulation of persons making deferred deposit transactions, which are transactions whereby a person defers depositing a customer's personal check until a specific date pursuant to a written agreement.

This bill would authorize service members, as defined, and their spouses, to defer payments on deferred deposit transactions, as provided.

This bill would prohibit persons making deferred deposit transactions from engaging in specified practices with respect to those

deferred deposit transactions and would require those persons to honor repayment agreements that are negotiated, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23038 is added to the Financial Code,
2 to read:

3 23038. (a) Any licensee that makes a deferred deposit
4 transaction to a service member or the service member's spouse
5 ~~must~~ *shall* defer payment on that deferred deposit transaction
6 pursuant to Section 823.5 of the Military and Veterans Code.

7 (b) A licensee shall not do any of the following:

8 (1) Collect on a deferred deposit transaction entered into by
9 the service member or the service member's spouse by
10 garnishing any of the service member's military pay.

11 (2) Contact the service member's military superiors regarding
12 a deferred deposit transaction entered into by the service member
13 or the service member's spouse.

14 (3) Make a deferred deposit transaction from a specific
15 location to a person that the licensee knows is a service member
16 or knows is the spouse of a service member when the service
17 member's commander has notified the licensee in writing that the
18 specific location is designated off-limits to military personnel
19 under his or her command.

20 (c) A licensee shall honor the terms of any repayment
21 agreement negotiated through military counselors or third-party
22 credit counselors. *Any repayments under the agreement shall not*
23 *commence until after the deferral period specified in subdivision*
24 *(c) of Section 823.5 of the Military and Veterans Code.*

25 (d) For the purposes of this section, "service member" means:

26 (1) Active duty members of the Armed Forces of the United
27 States assigned to a combat or combat support position.

28 (2) Officers and enlisted members of the National Guard
29 called or ordered into active state service by the Governor
30 pursuant to the provisions of Section 143 or 146 *of the Military*
31 *and Veterans Code* or into active federal service by the President
32 of the United States, pursuant to Title 10 or Title 32 of the United
33 States Code, for a period of 30 days or more.

1 (3) Reservists of the United States Military Reserve who have
2 been called to full-time active duty for a period of 30 days or
3 more.

4 SEC. 2. Section 823.5 is added to the Military and Veterans
5 Code, to read:

6 823.5. (a) Notwithstanding any other provision of law, any
7 service member or the service member's spouse may defer
8 payments on any deferred deposit transaction entered into by the
9 service member or the service member's spouse prior to the
10 service member's date of deployment.

11 (b) To defer payments on a deferred deposit transaction, the
12 service member or the service member's spouse shall deliver to
13 the deferred deposit transaction provider a letter signed by the
14 service member or the service member's spouse requesting
15 deferral of payment on the deferred deposit transaction.

16 (c) The deferral period on the deferred deposit transaction
17 shall be ~~for the duration of deployment~~ *a period of 180 days* and
18 shall apply only to any deferred deposit transaction entered into
19 by the service member or the service member's spouse prior to
20 the date of deployment. The amount of the deferred deposit
21 transaction shall be due in full on the deferred deposit transaction
22 provider's next business day immediately following the end of
23 the deferral period.

24 (d) For purposes of this section:

25 (1) "Date of deployment" means the date that the service
26 member met the definition of a service member as defined in
27 subdivision (d) of Section 23038 of the Financial Code. It does
28 not include temporary duty for the sole purpose of training or
29 processing or a permanent change of station.

30 (2) "Service member" has the same meaning as in subdivision
31 (d) of Section 23038 of the Financial Code.